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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA \*

CRIMINAL NO. 04CR20075

VERSUS

\* JUDGE MELANCON

GREGORY JAMES CATON

\* MAGISTRATE JUDGE HILL

**JUDGMENT<sup>1</sup>**

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, and after an independent review of the record, and a *de novo* determination of the issues, and consideration of the objections filed herein, and having determined that the findings are correct under applicable law;

**IT IS HEREBY ORDERED** that the Clerk **REINSTATE** petitioner's judgment of conviction and sentence on this court's docket as of **December 15, 2005**, that date representing the date from which the time for filing a notice of direct appeal shall run.

**IT IS FURTHER ORDERED** that petitioner's claim that he received ineffective assistance of counsel at sentencing because his attorney failed to argue claims based on *Blakely v. Washington*, 124 S.Ct. 2531 (2004) is **DISMISSED WITH PREJUDICE**.

**IT IS FURTHER ORDERED** that petitioner's remaining claim that he received ineffective assistance of counsel because the cumulative effect of these errors by counsel deprived him of Due Process is **DISMISSED WITHOUT PREJUDICE**.

Signed in chambers in Lafayette, Louisiana this 13th day of December, 2005.

  
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Tucker L. Melancon  
United States District Judge

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The District Judge is appreciative of the Magistrate Judge's recognition of the context in which the District Judge's comments were made, as set out in Footnote 15 on Page twenty-six of this Report and Recommendation.